

**VILLAGE OF FRANKLIN
PLANNING COMMISSION**

**Minutes of Meeting
March 21, 2012**

I. MEETING CALLED TO ORDER

The regular meeting of the Village of Franklin Planning Commission was called to order by Chair Al Beke at the Franklin Village Office Building, 32325 Franklin Road, Franklin, Michigan, at 7:30 P.M.

II. ROLL CALL

Present: Al Beke, David Goldberg, Mike Heisel, Mary Hepler, Dean Moenck
Absent: Calvin Cupidore, Connie Ettinger, Karen-Couf-Cohen (all excused)
Also Present: Planning Consultant Christopher Doozan-McKenna and Associates, Village Administrator Amy Sullivan, Village Clerk Eileen Pulker, Main Street Franklin Administrator Vivian Carmody

III. ADOPTION OF AGENDA

Beke requested moving the Public Hearing to agenda item IV and deleting the review of the Sign Ordinance.

Motion by Goldberg supported by Moenck to approve the agenda as revised.

Ayes: Beke, Goldberg, Heisel, Hepler, Moenck

Nays: None

Absent: Cupidore, Ettinger, Couf-Cohen,

Motion carried.

IV. PUBLIC HEARING

A. To Receive Public Comment on the Proposed Ordinance to Establish Chapter 1259, B-1, Bed and Breakfast Overlay District.

Beke opened the Public Hearing at 7:40 P.M. and noted comments are limited to three (3) minutes to ensure all have an opportunity to speak and if necessary, additional comments can be presented after all who wish to speak have done so. Beke requested Doozan to provide an overview of the proposed ordinance. Doozan noted the purpose of the public hearing is to consider whether Bed and Breakfast establishments ("B&Bs") should be permitted in the Village, reviewed the definitions included within the regulations, and noted the Commission's intent was to enable the Village Center and surrounding area as identified in the overlay district map to permit such establishments without impacting the zoning that applies to other properties throughout the Village by using a zoning tool that has been around for decades, overlay district zoning. He further explained how an overlay district works, noting the district, in essence, floats over the underlying zoning giving properties within the overlay district the option of developing/using the property in accordance with the underlying zoning or the B&B ordinance and regulations. Doozan noted the importance of properly regulating the B&Bs and provided an overview of the recommended regulations. He also noted there is no loss of property value; just an addition of the potential to develop/use a qualified property as a B&B (later in the meeting he acknowledged he misspoke and meant property right's not property value).

Robert George, Carol Street, inquired as to where in the Village the Commissioners live, noting none live in the Historic District, the map is inaccurate and misleading, this ordinance would be the first step in wiping out the historic district designation which the Historic District Commission (HDC) fought to get, and opined Villagers who do not live in the historic district could care less about those that do.

Steve Ernst, Bowden Lane, recommended considering setting a limit on the total number of B&Bs, noted the requirement that an owner of a B&B reside in the property full-time doesn't mean the owner has to be in the property when it is being used as a B&B which is problematic, sleeping room is not included in the defined primary functions, and referring to the map, there is residential property to the West side of Franklin Road which is just as close if not closer to the downtown area than some of the included East locations and wondered as to why they weren't included.

Vic Cestar, Franklin Road, inquired as to how this proposed ordinance came about with Commissioners noting Council directed PC to recommend whether B&B's should be permitted in the Village if they had the time and advising as to the process (consider/deliberate, hold public hearing, prepare best possible recommendation taking into consideration public comments/input, formalize recommendation to Council, Council would then render a decision). Cestar inquired as to whether Council had passed along any specifics regarding the directive, referring to the map and correspondence inquired as to whether the Snow House is included (correct the information provided if it is incorrect), and noted he is trying to protect his property (proposed ordinance negatively impacts his property) and concern for the other three (3) properties in that downtown area.

Mike Flevaris, Franklin Road, inquired as to how/why the Snow House property is commercial on the overlay district map (Doozan explained the zoning has never changed; the starting point for the overlay district map was the map used for the Corridor Improvement Authority consideration which was designed to facilitate commercial development). Beke noted the Snow House is residential and should have been included as such on the overlay district map and advised as to process.

Jay Gardner, Evelyn Court, inquired as to retail provisions in a B&B with Doozan advising him, except for lodging and qualified meals, retail is excluded, inquired as to the requirement for a B&B to be owner occupied with Doozan advising as proposed the property has to be owner occupied (not occupied by an agent) and inquired as to how Villagers would know what the final ordinance will look like with Commissioners advising him as to process and noting that all meetings are open to the public, public comment is always of benefit, and a time-frame for the final product has not been set.

Frank Yanke, Yanke Designs, noted his appreciation for all in attendance whether their opinions are pro or con, opined a B&B would be a nice addition to the Village, and the process will result in a positive resolution which works for the best of all.

Diane Lake, Crestwood, noted the statement of purpose does not include any reference to pursuance of or consistency with Master Plan goals, inquired as to why the Village is developing this ordinance, bedrooms are not included as a primary function, noted an accessory building (garage) could conceivably fit multiple sleeping rooms which could be problematic, expressed concerns relative to signage, noted she has lived in the Village for 40 years and on the PC for more than 15 and during that period of time no one has ever seriously expressed an interest in pursuing a B&B, and opined a B&B is inconsistent with the Master Plan and with the character of the Village noting past litigation in favor of the Village did not allow a change in use because character is, in part, impacted by use.

Walter Denison, Franklin Road, inquired as to whether the PC has had any formal discussion with Historic District Commission (HDC) on this matter and how long PC has been working on this issue with the Commission advising while representatives from HDC have been present there have been no formal discussions with the Commission and the Commission has been working on this on and off since June. Denison noted audience members have different versions of the map which is problematic, and inquired as to what happens to a B&B if the property is inherited by multiple people but only one elects to occupy the property in terms of the owner occupied requirement with Doozan suggesting the requirement would be met and the property could still operate as a B&B.

Sherry Sparks, Evelyn Court – Franklin Village Council, inquired as to why Doozan noted a B&B would have no impact on property values (as noted earlier, Doozan acknowledged he misspoke and meant property right's), opined impact on property value needs to be a consideration, and inquired as to what prompted the consideration of a B&B ordinance with the Commission providing an overview of the directive from Council, presentation from a realtor relative to a B&B, and process.

Eileen Pulker, Village Clerk, noted that the 2 different draft versions of the map are simply different in appearance but the central area is the same on both. Beke noted upon receiving feedback, Doozan has been requested to consider revising the map.

Steve Ernst, Bowden Lane, inquired as to why no properties West of Franklin Road were included on the overlay district map with the Commission providing an overview as to process and Hepler noting the proposed map was a starting point, considerations included what other communities had done and easy access to the Village Center to promote a lively downtown, and feedback on the map is one of the purposes of the public hearing.

Walter Denison, Franklin Road, referring to the owner occupied requirement, inquired as to whether a corporation could legally be prevented from buying a residential property in the Village with the Commission agreeing this is something they should consider.

Judy Weiner, Franklin Road, inquired if allowing one B&B opens the door to more from a legal perspective with Doozan noting the proposed ordinance does not establish a limit but there are communities that have ordinances in place that establish a limit on the total number.

Diane Lake, Crestwood, inquired as to whether a second public hearing would be scheduled if there are changes to the proposed ordinance with Beke noting, as an individual, he would not be opposed to holding a second public hearing and with Goldberg noting the Commission would need to consider this as there are Village costs to holding any public hearing, all meetings are public, and public comment is always welcome.

Judy Ernst, Bowden Lane, expressed her concerns over permitting B&Bs in the Historic District noting this could change the entire character of the HD and will increase traffic which is already problematic, and opined this ordinance will impact her personally which she feels is being imposed on the HDC by people who do not live in the HD.

Patrick Timlin, Carol, inquired as to how many of the Commissioners live in the Historic District or on Franklin Road (none), noted he purchased his homes on Carol in a residential neighborhood for a specific reason; to raise a family, allowing B&Bs will negatively impact his property values as potential buyers with a similar goal of raising a family will not want to live next to a B&B, B&Bs will cause safety concerns, and suggested properties West of Franklin Road should be included with the issue put to a populous vote which he will fight tooth and nail. Hepler noted the Commission has been requested by Council to consider this issue and as part of their due diligence, this public hearing was scheduled. Commissioners are here to listen to public comments, digest them, and consider in any recommendation that is formally made to Council. Discussion ensued relative to a second public hearing, mailings, and time-frame.

Diane Lake, Crestwood, opined the Historic District is the least suited for B&Bs due to the smaller size of the residential structures and a change in use of such a property would have significant impact on immediate neighbors as well as neighborhoods due to traffic volume and parking concerns and suggested the impact be carefully considered.

Eileen Harryvan, Vincennes, noted she lives in the Historic District on the West side, close to the Snow House and the 3 other properties and expressed her concerns relative to impact on property value, inquired as to whether a permit would be required with approval of those in close proximity notified, requested clarification as to parking and signage, and suggested noise and light concerns be addressed within the ordinance. Doozan noted an applicant would need to follow the special approval process which would include a public hearing.

Victor Cestar, Franklin Road, stated that he had been bothered by the house next door for three years; he is not in favor of modifying zoning via this ordinance, property is either residential or commercial; not a hybrid, enabling B&Bs via this ordinance is a slippery slope and could cause all kinds of complications/litigation for the Village, requested information continue to be provided, opined a quasi residential/commercial designation is disingenuous and is not serving the best interest of property owners, and encouraged the Village if B&Bs are decided to be of value towards improving or making the downtown area more successful commercially, to not use the proposed ordinance as the vehicle and to

consider approaching the four (4) property owners for input towards resolving the issue. He requested the record reflect that he would be open to such an approach.

Carolyn Weiner, Franklin Road, inquired as to the criteria the Commission would use in rendering a recommendation to Council with Commissioners noting the recommendation would be based on what benefits the Village the most within the context of the Master Plan and public comments would be highly considered.

Diane Lake, Crestwood, suggested that it would not be difficult to find someone who has expertise on the impact to property values and such input/data should be a significant part of the equation.

Frank Yanke, Yanke Designs, noted as a business owner in Franklin, he chose Franklin to site his business for the same reasons all chose Franklin, B&Bs would be a benefit to the business community, and expressed his appreciation for this well-rounded discussion.

Nancy Timlin, Franklin Road, noted they moved into their neighborhood with small children, are family oriented, had a specific lifestyle in mind, and specifically chose a neighborhood that in essence is a close knit group of people that fit their family goals such as being able to safely walk down the street. She expressed her concern that B&Bs would change the neighborhood and are contrary to those goals and requested the Commission consider this matter very carefully.

Steve Ernst, Bowden Lane, noted this evening there has only been one party speaking in favor of B&Bs, Mr. Yanke. Commissioners noted e-mails had also been received.

James Kochensparger, Franklin Village Council, provided an overview as to how consideration of B&Bs came about and noted the thought process was to consider whether the Village could benefit if they were allowed by making the Village better in some way, increasing values, or perhaps, increasing revenues.

Patrick Timlin, Carol Street, expressed his concern that no formal discussions regarding this matter have been held with HDC which strictly regulates the historic district, provided examples of HDC regulations, and suggested the Commission sit down with HDC to better understand their very distinct set of rules. Timlin noted that Mr. Yanke knew Franklin wasn't a B&B town when he made the decision to site his business in the Village. He opined the B&B ordinance is similar to condemnation in that it is changing his use of his property by forcing him to potentially live next door to a B&B, which he opined, wouldn't happen if the shoe was on the other foot. Timlin noted that whether this is in the HD is almost irrelevant as it is contrary to Franklin's character ("the town that time forgot") which is what brought Villagers to the Village. He opined that perhaps a location on Franklin Road that has no residential around it, could be considered. He also noted concerns relative to Huda school and its impact on the neighborhood.

Beke thanked the public for their input and closed the public hearing at 8:50 P.M.

Beke noted the e-mailed communications should be included in the minutes.

- **Gary Roberts, dated March 21, 2012 – Chairman, Franklin Historic District Commission**

"Thank you for the information on the proposed B&B ordinance. I think the concept is interesting and worth pursuit. I am sorry I am unable to attend the PC meeting this evening but would appreciate it if you would offer my comments into the records."

"As you know, the history of many, if not most, of our commercially zoned buildings is of a residential use. In fact two of which were in service as hotels for many years. It is my opinion that the proposed ordinance should allow those facilities to be used for this purpose. If the building currently zoned commercial could drop the requirement for owner occupied, then in my opinion, the community would be better served than allowing this use in the areas proposed on the map. It seems to me that a person who pays to enter a neighborhood does not have the same interest at heart than does a homeowner. Admittedly I don't live in the proposed district but if I did, I would not be comfortable with potentially

having a new neighbor every day. Those issue are averted if you turn the map around and create this overlay district in the currently commercially zoned residentially constructed structures. Thank you for your consideration of my comments.”

Suzanne McClow, dated March 21, 2012

“I am not able to attend the public hearing tonight, but have a few comments.”

“The map that was sent out with the public hearing announcement is incorrect. The “Snow House” property and the house on Vincennes owned by the fire corporation are coded as commercial. Both houses are zoned residential. There may be other errors that I haven’t noticed.”

“It’s my understanding that someone was interested in purchasing a house for a bed and breakfast and that the council thought it was a good idea and then ordered the Planning Commission to draft an ordinance.”

“At first I didn’t think it was a bad idea. I don’t know how I feel now. I would need more time to talk to my neighbors. Several of my neighbors visited me yesterday with valid concerns. Among their concerns were that this ordinance might cause a decline in their property values and that it might increase crime, light and noise. The more we talked the more concerns I had.”

“Why doesn’t the drafted ordinance include all residential homes in Franklin? I am not sure if this is good for Franklin. I guess I have more concerns than not.”

- **Judy Meade, dated March 21, 2012**

“I am not certain I will be able to attend the Public Hearing of the above tonight. I would like the Planning Commissioners to know that I have several concerns, but will only mention 2 below.”

“One that comes first to mind is preservation of our Historic District – the first in the state of Michigan.”

“Also, I am wondering why just a few residential properties are included in this Overlay District. Why can’t everyone in the village have the same opportunity to make some money and open a Bed & Breakfast? These are difficult time, and I am sure there are other property owners who would like to do this, at least on a part time basis. There are many large, lovely homes with plenty of parking; their owners should be able to open their homes to paying customers who can stay up to 2 weeks.”

“I think this proposal should only be considered as applicable to all Villager’s not just those who own homes that someone in the Village government has arbitrarily decided would be nice to turn into business establishments. Everyone should be able to put up a sign and have paying guests who can use their properties 24/7.”

- **Pat Burke, dated March 21, 2012 – Board Member, Franklin Historic District Commission**

“I just want you to know that I think having Bed and Breakfasts in Franklin is a GREAT idea!!!! Imagine Petoskey and Charlevoix with their charming B&B’s mixed in among their other homes. Or South Haven. There is no good place to stay near Franklin and the Townsend is too expensive. This could be a boon to our little village! I love it!!!!”

V. ADOPTION OF MINUTES

B. Regular Meeting of February 15, 2012

Lack of quorum due to Hepler’s absence at the February meeting and subsequent abstention on this vote.

VI. COUNCIL LIAISON REPORT

Sullivan noted Council approved refinancing of the last bond, made a decision on the road project overage, approved the renewal of the Fire Dispatch Agreement with Oakland County, set two (2) workshops for budget considerations, and considered and approved reinstating the five (5) day work week.

A. Main Street Franklin Update

Carmody noted the annual evaluation resulted in Main Street Franklin being fully accredited and speaks to the hard work of Main Street volunteers and the community as a whole, committees are moving forward on work plans, Chili Cook-Off brought in over 200 people to the downtown area, Property Owner meeting is scheduled, Design Committee is continuing to move forward on wrapping up the charette response, and educational mailer as to what Main Street is will be going out soon which will have a fundraising component.

VII. BUDGET EXPENDITURE REPORT

A. Budget Update

Heisel noted that secretarial costs will exceed budgeted amount at this rate.

VIII. PUBLIC COMMENTS

Kochensparger thanked Commissioners for their work in this regard and noted there didn't appear to be a lot of support for the B&Bs. Eileen Harryvan thanked the Commission for the discussion and their comments.

IX. UNFINISHED BUSINESS

A. Bed and Breakfast Ordinance Review

Commissioners discussed Council's directive and process with it being noted the directive was to consider whether to allow B&Bs. Commissioners noted a key consideration would be community benefit and format of recommendation does not have to be an ordinance. Commissioners suggested the public comments be categorized in summary form by Village staff prior to the next meeting to facilitate a "next-step" type discussion based on the comments (comments in general as well as ordinance specific recommendations). Sullivan suggested adding the summary as an agenda item.

B. Medical Marihuana Report

No update provided.

C. Review By Laws

Beke suggested moving this discussion to the next meeting and noted the intent would be to take some action then. Sullivan noted Pat Burke would be available and Heisel suggested that comments be brought forth now which would facilitate a more rapid review at the next meeting. Moenck noted he only has two minor areas for further discussion.

Motion by Goldberg supported by Hepler to postpone the review of the By Laws to the next scheduled meeting.

Ayes: Beke, Goldberg, Heisel, Hepler, Moenck

Nays: None

Absent: Calvin Cupidore, Connie Ettinger, Karen Couf-Cohen,

Motion carried.

X. UPCOMING MEETING DATES

A. Next Regular Meeting Date: April 18, 2012, 7:30 p.m. (if needed)

XI. ADJOURNMENT

Motion by Beke supported by Moenck to adjourn the meeting.

Ayes: Beke, Goldberg, Heisel, Hepler, Moenck

Nays: None

Absent: Calvin Cupidore, Connie Ettinger, Karen Couf-Cohen,

Motion carried.

There being no further business, the meeting adjourned at 9:09 P.M.

Respectfully submitted,

Lori D. Rich, Recording Secretary

Eileen H. Pulker, Clerk

To Do List

- 1) **Bed and Breakfast Ordinance:** Clerk to categorize public comments; add e-mails to minutes;
- 2) **February Minutes:** Add to April (or next meeting) Agenda;
- 3) **Sign Ordinance Review:** Add to April Agenda; and
- 4) **By Laws Review:** Add to April Agenda; Commission to take some action.